



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
AND ENVIRONMENTAL CONTROL

OFFICE OF THE  
SECRETARY

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October 30, 2008

Mr. Robert C. Wheatley, Chair  
Sussex County Planning and Zoning Commission  
2 The Circle  
Georgetown DE 19947

Dear Mr. Wheatley:

Members of DNREC's Planners Technical Advisory Committee took the opportunity to review Sussex County's proposed Open Space ordinance. PTAC includes department staff from all divisions who regularly review development projects for PLUS.

We appreciate the County's efforts to put a finer point on a definition of open space. We just went through this exercise internally, and our definition is at the end of this letter. We recognize that our perspective is mainly one of protecting our natural resources, while the County also seeks to provide recreational amenities to its citizens.

We respectfully offer the following observations and suggestions for your ordinance:

1. You may wish to distinguish between requirements/definitions for open space and requirements/definitions for recreational facilities. Impervious surfaces such as swimming pools and tennis courts may be highly desired amenities, but most definitions of open space call for low-impact recreational activities with little or no land disturbance. Likewise, bike paths, walking paths and sidewalks should be subtracted from open space calculations if they are comprised of impervious surfaces.
2. Similarly, there is contradictory language regarding impervious surfaces: Section 99-5 (C.) states that "predominantly impervious surfaces such as street rights of way, sidewalks within street rights of way, parking and/or loading areas" are not permitted, "and the land area devoted to said uses will not be included in the calculation of open space." Yet, swimming pools and game courts are typically

highly impervious.

3. The Sediment and Stormwater Program strongly urges you not to exclude all stormwater management facility areas. Not all stormwater management areas are wet ponds. Different stormwater practices should be given consideration for inclusion in the open space calculation. The developer should be given credit when utilizing green-technology best management practices. An example would be a meadow in an excellent recharge area that the developer wants to direct stormwater runoff towards utilizing a level spreader, filter strips, and bio retention swales. Under the ordinance, none of the green technology practices or the meadow would be calculated as open space as they would be considered part of the stormwater management facility areas.
4. We suggest you include a characterization or definition of a pond with a "demonstrated safe recreational value and purpose" as mentioned in Section 99-5 (B).
5. We commend your efforts to safeguard "wildlife corridors," as referenced in Section 115-4 E., but suggest they be more clearly defined. Wildlife corridors are defined as relatively narrow strips of habitat comprised of natural vegetation that serve as travel pathways for wildlife between two or more larger areas of habitat. Wildlife corridors are typically found adjacent to streams or wetlands and support the survival of many species by providing food and water, protective cover from predators, and shelter from harsh weather, and by reconnecting isolated populations.

A great number of songbirds, game birds, small mammals, reptiles and amphibians, and other wildlife use corridors. An effective wildlife corridor is generally much wider than buffers for water quality or other protective purposes. Corridor width may vary with habitat type or target species, but a rule of thumb for Delaware is a minimum of 100-300 feet wide or wider if possible. The following design elements should also be considered:

- Maintain as much natural open space as possible next to culverts to facilitate access and encourage use of culverts by wildlife.
- Avoid allowing housing or other uses that will deter wildlife from using corridors. If housing is to be permitted next to the corridor, put conservation easements on adjacent lots to prohibit structures, dumping, vegetation clearing and planting of invasive species within the corridor.

- Encourage lighting design for structures adjacent to corridors that prevent light pollution from affecting wildlife. For example, lights can be directed downward and inward toward the home.

### **DNREC Definition of Open Space**

The intent of the following is to provide consistent DNREC guidance on the design and use of Open Space in developments reviewed through PLUS or other development review processes. The following is not intended to be consistent with the definition of "Open Space" found within Title 7, Chapter 75, Land Protection Act:

**Open Space** is defined as those areas with public value in a predominantly natural state and undeveloped condition. Such areas may contain, but are not limited to, wildlife and native plant habitat, forest, farmland, meadows, wetlands, floodplains, shorelines, stream corridors, steep slopes, and other areas that have species or habitats of conservation concern.

Open Space may be preserved, enhanced and restored in order to maintain or improve the natural, ecological, hydrological, or geological values. An important design element to consider when incorporating Open Space in a development is to take maximum advantage of adjoining Open Space areas. This will advance the goal of an interconnected network of habitat corridors for wildlife and provide for future potential linkages.

### **Open Space is not:**

- impervious surfaces (e.g., roads, parking lots, sidewalks, buildings)
- swimming pools or ponds that are lined or contain an impervious substrate
- stormwater management structures
- wastewater treatment systems

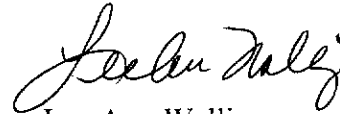
### **Types of Recreational Open Space:**

- *Passive*-Passive recreation areas include only low-impact activities having little or no disturbance on natural features.
- *Active*-Active recreation areas (e.g., ball fields, playgrounds) should be placed only in Open Space areas that do not already contain natural habitat.

Mr. Robert Wheatley, Chair  
October 30, 2008

Thank you for the opportunity to comment on your proposed ordinance. If we can be of any assistance or answer any questions, please contact me and I will refer you to the appropriate expert(s).

Sincerely,

A handwritten signature in black ink, appearing to read "Lee Ann Walling". The signature is fluid and cursive, with the first name "Lee Ann" and the last name "Walling" clearly distinguishable.

Lee Ann Walling  
Chief of Planning

cc: Mr. Lawrence Lank, Director, Planning and Zoning  
Connie Holland, Director, Office of State Planning Coordination